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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 CREATIVE PHOTOGRAPHERS, INC.,
14 a New York Corporation,

15 Plaintiff,

16 v.

17 DR. THOMAS CONNELLY, an individual,
18 d/b/a "DRCONNELLY.COM"; and DOES 1
19 through 10,

20 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT
FOR COPYRIGHT INFRINGEMENT

Jury Trial Demanded

21 CREATIVE PHOTOGRAPHERS, INC., by and through its undersigned
22 attorneys, hereby prays to this honorable Court for relief based on the following:

23 **JURISDICTION AND VENUE**

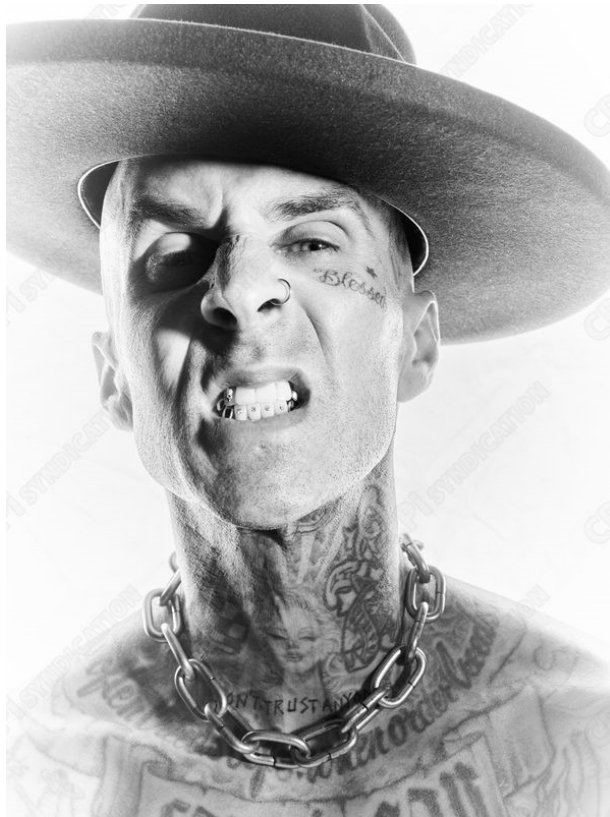
- 24 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et*
25 *seq.*
26 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338
27 (a) and (b).

1 and/or employment; and actively participated in or subsequently ratified and/or
2 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
3 circumstances, including, but not limited to, full knowledge of each violation of
4 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

5 **CLAIMS RELATED TO THE SUBJECT PHOTOGRAPH**

6 8. By virtue of contractual assignment with the photographer, Plaintiff is the
7 sole and exclusive agent and representative for the licensing and use of the original
8 photograph of musician Travis Barker shown below (the "Subject Photograph").
9 Pursuant to that assignment, Plaintiff has full and complete authority to pursue the
10 unauthorized use of said image and standing to bring this action (see *Minden*
11 *Pictures, Inc. v. John Wiley & Sons*, 795 F.3d 997 (9th Cir., 2015)):

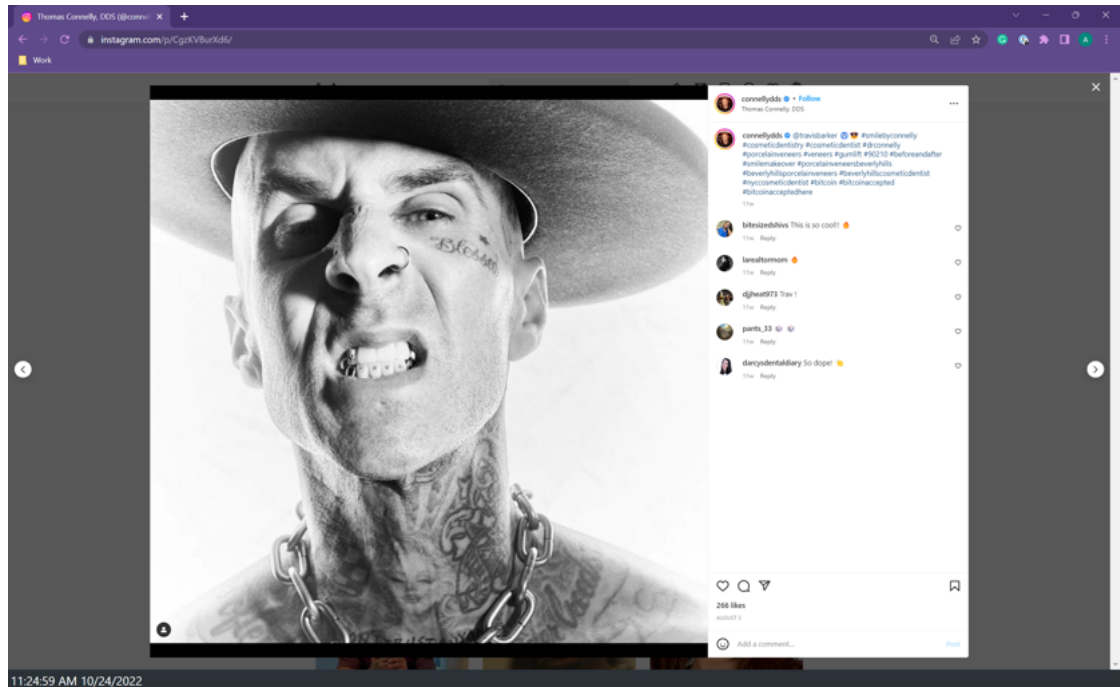
12 **Subject Photograph**



26 9. The Subject Photograph was registered with the United States Copyright
27 Office under Reg. No. VA 2-280-250.

10. Plaintiff is informed and believes and thereon alleges that following its publication and display of the Subject Photograph, CONNELLY, DOE Defendants, and each of them used the Subject Photograph without Plaintiff's authorization for commercial purposes in various ways, including, but not limited to, the use on websites such as <https://www.instagram.com/connellydds>.

11. A screen capture of said use is set forth hereinbelow:



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

12. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

13. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Photograph, including, without limitation, through Plaintiff's website and social media accounts or viewing the Subject Photograph on third-party websites (e.g., Tumblr, Pinterest, etc.).

1 14. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, used and distributed images of the Subject Photograph, and exploited
3 said image in multiple website posts without Plaintiff's authorization or consent.

4 15. Due to Defendants', and each of their, acts of infringement, Plaintiff has
5 suffered damages in an amount to be established at trial.

6 16. Due to Defendants', and each of their, acts of copyright infringement as
7 alleged herein, Defendants, and each of them, have obtained profits they would not
8 otherwise have realized but for their infringement of the Subject Photograph. As
9 such, Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
10 attributable to the infringement of the Subject Photograph in an amount to be
11 established at trial.

12 17. Plaintiff is informed and believes and thereon alleges that Defendants, and
13 each of them, have committed copyright infringement with actual or constructive
14 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
15 and continue to be, willful, intentional and malicious.

16 **PRAYER FOR RELIEF**

17 Wherefore, Plaintiff prays for judgment as follows:

- 18 a. That Defendants—each of them—and their respective agents and
19 servants be enjoined from importing, manufacturing, distributing,
20 offering for sale, selling or otherwise trafficking in any product that
21 infringes Plaintiff's copyrights in the Subject Photograph;
- 22 b. That Plaintiff be awarded all profits of Defendants, and each of them,
23 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
24 or, if elected before final judgment, statutory damages as available under
25 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 26 c. That Plaintiff be awarded its attorneys' fees as available under the
27 Copyright Act U.S.C. § 101 et seq.;

- 1 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
2 e. That Plaintiff be awarded the costs of this action; and
3 f. That Plaintiff be awarded such further legal and equitable relief as the
4 Court deems proper.

5 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
6 38 and the 7th Amendment to the United States Constitution.

7 Dated: February 24, 2023

DONIGER/BURROUGHS

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9 By: /s/ Stephen M. Doniger
10 Stephen M. Doniger, Esq.
11 Benjamin F. Tookey, Esq.
12 Attorneys for Plaintiff
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